

Preparation of Supplementary Conditions

**Rural Utilities Service
December 1997**

PART I: USE OF THIS DOCUMENT

This guidance is to be used only in association with the following Engineers Joint Contract Documents Committee (EJCDC) documents:

1. Guide to Preparation of Supplementary Conditions (No. 1910-17, 1996 Edition),
2. Standard Form of Agreement Between Owner and Contractor on the Basis of Stipulated Price, Funding Agency Edition (No. 1910-8-1-FA, 1997 Edition), and
3. Standard General Conditions of the Construction Contract Funding Agency Edition (No. 1910-8-FA, 1997 Edition).

The EJCDC Guide to Preparation of Supplementary Conditions is coordinated with the Standard Edition documents. Therefore, you must make certain the paragraph references to the General Conditions, Funding Agency Edition, are accurate. Refer to the EJCDC documents for basic information. The EJCDC document Owner's Instructions Regarding Bidding Procedures and Construction Contract Documents, 1910-29 (1996 Edition) and Attachment 26-2 of this Bulletin 1780-26, can assist the Owner, Engineer, and Agency in determining the procedures to be used on a specific project.

Because the EJCDC documents are fully integrated, when making a modification in one document you should ensure that appropriate modifications are made in all effected documents. It is the Rural Utilities Service (RUS) policy that the applicants use the EJCDC documents with minimal modification. However, RUS recognizes each project is unique and that modifications may be required to satisfy specific project requirements or State statutes.

Part II of this document is a model set of Supplementary Conditions that can be used as the starting point for preparing the actual Supplementary Conditions for RUS water and waste projects. Any additions or modifications should follow the same format as the base document.

Special attention should be focused on the types and amounts of insurance, and those to listed as additional insureds under paragraph 5.04. These should be reviewed for each project in terms of the specific conditions associated with that project and the risks involved, and then the paragraphs in the Supplementary Conditions drafted accordingly. RUS does not support unfair allocation of risk or the burden of excessive insurance coverage.

Text enclosed in {} indicates a choice is necessary or information must be inserted. This information must be provided and the {} eliminated prior to submittal to Rural Development for review.

PART II: SUGGESTED LANGUAGE FOR SUPPLEMENTARY CONDITIONS

Supplementary Conditions

These Supplementary Conditions amend or supplement the Standard General Conditions of the Construction Contract Funding Agency Edition (No. 1910-8-FA, 1997 Edition) and other provisions of the Contract Documents as indicated below. All provisions which are not so amended or supplemented remain in full force and effect.

The terms used in these Supplementary Conditions will have the meanings indicated in the General Conditions. Additional terms used in these Supplementary Conditions have the meanings indicated below, which are applicable to both the singular and plural thereof.

SC-1.01.A.4. Add the following language to the end of paragraph 1.01.A.4:

The Application for Payment form to be used on this Project is *{include copy of blank form}*.

SC-1.01.A.10. Add the following language to the end of paragraph 1.01.A.10:

The Change Order form to be used on this Project is *{include copy of blank form}*.

SC-1.01.A.21. Add the following language to the end of paragraph 1.01.A.21:

The ENGINEER's Consultants on this project are: *{list all consultants}*.

SC-2.03.A. Delete paragraph 2.03.A in its entirety and insert the following in its place:

A. The Contract Times will commence to run on the day indicated in the Notice to Proceed. A Notice to Proceed may be given at any time within *{30}* days after the Effective Date of the Agreement.

{SC-4.02. Add the following new paragraphs immediately after paragraph 4.02.B:

C. In the preparation of Drawings and Specifications, ENGINEER or ENGINEER's Consultants relied upon the following reports of exploration and tests of subsurface conditions at the Site:

1. See EJCDC No. 1910-17 for examples.

D. In the preparation of Drawings and Specifications, ENGINEER or ENGINEER's Consultants relied upon the following drawings of physical conditions in or relating to existing surface and subsurface structures (except Underground Facilities) which are at or contiguous to the Site:

1. See EJCDC No. 1910-17 for examples.

E. Copies of reports and drawings itemized in SC-4.02.C and SC-4.02.D that are not included with Bidding Documents may be examined at _____ during regular business hours. These reports and drawings are not part of the Contract Documents, but the "technical data" contained therein upon which the CONTRACTOR may rely as identified and established above are incorporated therein by reference. CONTRACTOR is not entitled to rely upon other information and data utilized by ENGINEER and ENGINEER's Consultants in the preparation of the Drawings and Specifications.]

{SC-4.06. Add the following new paragraphs immediately after paragraph 4.06.A:

1. In the preparation of Drawings and Specifications, ENGINEER or ENGINEER's Consultants relied upon the following reports of Hazardous Environmental Conditions at the Site:

a. See EJCDC No. 1910-17 for examples.

2. In the preparation of Drawings and Specifications, ENGINEER or ENGINEER's Consultants relied upon the following

drawings of Hazardous Environmental Conditions which are at or contiguous to the Site:

a. See EJCDC No. 1910-17 for examples.

3. Copies of reports and drawings itemized in SC-4.06.A.1 and SC-4.06.A.2 that are not included with Bidding Documents may be examined at

during regular business hours. These reports and drawings are not part of the Contract Documents, but the "technical data" contained therein upon which the CONTRACTOR may rely as identified and established above are incorporated therein by reference. CONTRACTOR is not entitled to rely upon other information and data utilized by ENGINEER and ENGINEER's Consultants in the preparation of the Drawings and Specifications.}

{The amounts of coverage for each type of insurance under paragraph 5.04 are considered to be the minimum amounts that should be used to provide the OWNER adequate protection. These amounts should be reviewed in the context of the specific project and adjusted accordingly.}

SC-5.04. Add the following new paragraph immediately after paragraph 5.04.B:

C. The limits of liability for insurance required by paragraph 5.04 of the General Conditions shall provide coverage for not less than the following amounts or greater where required by Laws and Regulations:

1. Workers' Compensation, and related coverages under paragraphs 5.04.A.1 and A.2 of the General Conditions:

- | | |
|-------------------------------------------------|--------------|
| a. State: | Statutory |
| b. Applicable Federal
(e.g., Longshoremen's) | Statutory |
| c. Employer's Liability | {\$ 500,000} |

2. Contractor's General Liability under paragraphs 5.04.A.3 and A.6 of the General Conditions which shall include completed operations and product liability coverages and eliminate the exclusion with respect to

property under the care, custody, and control of the Contractor:

- a. General Aggregate {\$ 2,000,000}
- b. Products - Completed
Operations Aggregate {\$ 1,000,000}
- c. Personal and Advertising
Injury {\$ 1,000,000}
- d. Each Occurrence
(Bodily Injury and
Property Damage) {\$ 1,000,000}
- e. Property Damage liability
insurance will provide Explosion,
Collapse, and Underground
coverages where applicable.
- f. Excess or Umbrella Liability
 - 1) General Aggregate {\$ 5,000,000}
 - 2) Each Occurrence {\$ 5,000,000}

3. Automobile Liability under paragraph 5.40.A.6 of the General Conditions:

- a. Combined Single
Limit of {\$ 1,000,000}

4. The Contractual Liability coverage required by paragraph 5.04.B.4 of the General Conditions shall be provided by the CONTRACTOR as part of the CONTRACTOR'S General Liability coverage.

{5. List additional types and amounts of insurance that may be required by OWNER.}

{6. List by name other persons or entities to be included on policy as additional insureds.}

{SC-5.06.A. In the case of multiple prime contractors on a single Site (multiple prime contractors for the Project may each need to provide property insurance), it is necessary to define the Contractor responsible for providing the Property Insurance. If there is only one contractor on the site, do not modify paragraph 5.06.A of the General Conditions.}

{SC-5.06.A.1. List by name other persons or entities to be included on policy as additional insureds.}

SC-6.05.C. Amend the paragraph by making two subparagraphs under the title C. Engineer's

Evaluation. The paragraph text is retitled, 6.05.C.2 After Effective Date of Agreement. A new paragraph is added before this paragraph to read as follows:

1. During Bidding. The Contract, if awarded, will be on the basis of materials and equipment specified or described in the Bidding Documents, or "or-equal" materials and equipment as defined in paragraph 6.05 of the General Conditions, or those substitute or materials and equipment approved by the ENGINEER and identified by Addendum. The materials and equipment described in the Bidding Documents establish a standard of required type, function, and quality to be met by any proposed substitute or "or-equal" item. Request for ENGINEER's clarification of materials and equipment considered "or-equal" prior to the Effective Date of the Agreement must be received by the ENGINEER at least 5 days prior to the date for receipt of Bids. No item of material or equipment will be considered by ENGINEER as a substitute unless written request for approval has been submitted by Bidder and has been received by ENGINEER at least 15 days prior to the date for receipt of Bids. Each request shall conform to the requirements of paragraph 6.05 of the General Conditions. The burden of proof of the merit of the proposed item is upon the Bidder. ENGINEER's decision of approval or disapproval of a proposed item will be final. If ENGINEER approves any proposed substitute item, such approval will be set forth in an Addendum issued to all prospective Bidders. Bidders shall not rely upon approvals made in any other manner.

{SC-6.10. If OWNER qualifies for sales or use tax exemptions, the language should be inserted here and coordinated with the language of Article 22 of the Instructions to Bidders.}

{SC-7.01.A. If the OWNER is planning to have Work performed by more than one prime contractor, by OWNER, or others, it should be specifically stated here.}

{When multiple prime contractors are working on a single Site, the following modification should be made.}

SC-7.02.A.1. Delete paragraphs 7.02.A.1-3 in their entirety and insert the following:

*1. The _____
CONTRACTOR shall have the authority and be responsible for coordination of the activities among the other prime contractors and subcontractors on the Site to ensure a safe, efficient working environment. This authority covers scheduling delivery of materials, storage of materials, sequencing of construction involving different crafts, resolving interface issues between crafts, scheduling testing, and all other aspects of the Work that do not impact the design or function of the Work.}*

SC-9.03.A. Add the following language at the end of paragraph 9.03:

The Duties, Responsibilities, and Limitations of Authority of the Resident Project Representative will be as stated in Exhibit D of the OWNER-ENGINEER Agreement, 1910-1-FA, 1997 Edition, as amended and executed for this specific Project.
{If anyone other than the Engineer is providing the Resident Project Representative, this should be stated here.}

SC-18.08 Delete paragraph 18.08.A in its entirety and insert the following in its place:

A. Where this Contract exceeds \$100,000 CONTRACTOR shall comply with all the requirements of the Clean Air Act (42 U.S.C. §7414) and Section 308 of the Water Pollution Control Act (33 U.S.C. §1318) relating to inspection, monitoring, entry, reports, and information, as well as all other requirements specified in Section 114 of the Clean Air Act and Section 308 of the Water Pollution Control Act and all regulations and guidelines issued thereunder after the award of the contract. In so doing the Contractor further agrees:

1. As a condition for the award of contract, to notify the Owner of the receipt of any communication from the Environmental Protection Agency (EPA) indicating that a facility to be utilized in the performance of the contract is under consideration to be listed on the EPA list of Violating Facilities. Prompt notification is required prior to contract award.

2. To certify that any facility to be utilized in the performance of any nonexempt contractor subcontract is not listed on the EPA list of Violating Facilities pursuant to 40 CFR Part 32 as of the date of contract award.

3. To include or cause to be included the above criteria and the requirements in every nonexempt subcontract and that the Contractor will take such action as the Government may direct as a means of enforcing such provisions.

{SC-18. This does not apply to RUS financed projects, but when another funding source requires the OWNER comply with the Davis-Bacon Act, add a new paragraph 18.13 immediately after paragraph 18.12 and coordinate the language with Article 23 of the Instructions to Bidders.

18.13. Davis-Bacon and Related Acts

A. During the performance of the Work under this Contract the CONTRACTOR must abide by the Labor Standards Provisions of the Davis-Bacon and Related Acts.

1. Wage Determination. Insert wage determination.

2. Labor Standards Provisions. The Labor Standards Provisions as stated in RD Instruction 1940-C, Exhibit A are hereby incorporated into this Contract. The CONTRACTOR will be responsible for complying with these provisions and the OWNER and Agency will monitor compliance. Suggest copy of Exhibit A be included in documents.}